IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Crl.MC.No. 3470 of 2007()

ST.2251/2005 of JUDL. MAGISTRATE OF FIRST CLASS, CHENGANACHERRY

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PETITIONER: ACCUSED

MATHEW, ELLAMTHURUTHIYIL,
MURINJAPUZHA, PERUVANTHANAM,
PEERMEDE, KOTTAYAM.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS: COMPLAINANT & STATE

1. M.V.SOMAN PILLAI,
LEKSHMI NIVAS(KALATHIL),
PERUNNA, CHANGANACHERRY,
KOTTAYAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3470 OF 2007

Dated this the 26th day of November, 2007

O R D E R

A transparent error crept into the complaint filed under section 138 of the Negotiable Instruments Act, 1881. The cheque in question was dated 26.3.05. Dishonour memo was dated 20.3.05. Notice of demand was sent later on 30.4.05. It was returned unserved. But while referring to the date of the unclaimed notice, it was shown that it was dated 30.4.04. This obvious and indisputable mistake was sought to be corrected. Request was allowed by the learned Magistrate. The petitioner/accused claims to be aggrieved by the said order permitting correction of the relevant date in the complaint and the proof affidavit. It is prayed that the powers under section 482 Cr.P.C. may be invoked in as much as the learned Magistrate does not have any powers to permit such correction.

2. Powers under section 482 Cr.P.C. are to be invoked sparingly and in exceptional cases in aid of justice. This court were to invoke the powers in the circumstances mentioned above

it would lead to transparent failure of justice. To permit such inconsequential error to be corrected when the error is eloquently declared by the totality of circumstances is the duty of any court and if not necessary to be undone by invoking the powers under section 482 Cr.P.C.

This petition is accordingly dismissed.

(R.BASANT, JUDGE)

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